

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

DEREK TUCSON, ROBIN SNYDER,
MONSIEREE DE CASTRO, and ERIK
MOYA-DELGADO,

Plaintiffs,

v.

CITY OF SEATTLE, ALEXANDER
PATTON, TRAVIS JORDAN, DYLAN
NELSON, JOHN DOES (#1-4), and JANE
DOES (#1-2)

Defendants.

No. 2:23-cv-00017-MJP

JOINT STATUS REPORT AND
DISCOVERY PLAN

PURSUANT TO this Court's January 5, 2023 Order Regarding Initial Disclosures, Joint Status Report, And Early Settlement (Dkt. 4), the parties met on March 21, 2023 by direct and personal face-to-face remote video conference and submit the following Joint Status Report and Discovery Plan:

1. A statement of the nature and complexity of the case.

Plaintiffs allege Defendants retaliated against Plaintiffs based on constitutionally-protected expressions and activities using a constitutionally-overbroad ordinance, resulting in damages; Defendants deny these allegations. The case is not especially complex.

1 **2. A proposed deadline for joining additional parties.**

2 Given that the identity of individual defendants is not presently known to
3 Plaintiffs, the parties propose five months of discovery prior to the deadline for joining
4 additional parties.

5 **3. A discovery plan that states, by corresponding paragraph letters (A, B,
6 etc.), the parties' views and proposals on all items set forth in Fed. R. Civ.
7 P. 26(f)(3), which includes the following topics:**

8 **(A) initial disclosures;**

9 The parties have exchanged initial disclosures.

10 **(B) subjects, timing, and potential phasing of discovery;**

11 Regarding disclosure of any expert witnesses, the parties propose the following
12 deadlines: 90 days prior to close of discovery for Plaintiffs and 60 days prior to the close
13 of discovery for Defendants;

14 **(C) electronically stored information;**

15 The parties agree to exchange electronic files in the form they are customarily
16 stored by the party. If a party keeps and uses a file in .pdf format, then the party will
17 produce it in .pdf format. If a party keeps and uses a file in another format, then the party
18 will produce it in that format. Other than that agreement, the parties agree to use the
19 Model Protocol for Discovery of ESI.

20 The parties will discuss the use of agreed search terms.

21 **(D) privilege issues;**

22 Plaintiffs anticipate encountering claims of privilege while conducting discovery
23 relating to the jail booking policy “override(s)” that targeted non-violent protesters for
24 booking, including but not limited to Defendants’ internal correspondence regarding the
25 same, and will raise those issues with the Court if and when they arise. Other than that,
26 the parties otherwise do not anticipate any unusual privilege issues.
27

1 **(E) proposed limitations on discovery; and**

2 Plaintiffs propose a limit on discovery into their private lives, social media
3 accounts, political activities, and privately held views. Plaintiffs make no claim for
4 mental or wage-related damages. Plaintiffs' private lives, social media accounts, political
5 activities, and privately held views are immaterial to the claims and defenses, and thus
6 are not calculated to lead to the discovery of admissible evidence.

7 Defendants do not agree to Plaintiffs' proposed limitation and, instead, propose
8 following the Federal Rules of Civil Procedure and applicable legal precedent with
9 respect to what is or is not discoverable.

10 **(F) the need for any discovery related orders.**

11 The parties will present an agreed proposed Protective Order related to sensitive
12 and confidential information such as Social Security numbers, dates of birth.

13 Plaintiffs anticipate the need for court intervention on the issue of a protective
14 order related to subsection (3)(E), above.

15 **4. The parties' views, proposals, and agreements, by corresponding**
16 **paragraph letters (A, B, etc.), on all items set forth in Local Civil Rule**
17 **26(f)(1), which includes the following topics:**

18 **(A) prompt case resolution;**

19 The parties are open to prompt case resolution after resolution of early motions
20 and discovery regarding unidentified defendants;

21 **(B) alternative dispute resolution;**

22 The parties are open to alternative dispute resolution after resolution of early
23 motions and discovery regarding unidentified defendants, with mediation being the most
24 likely method;

25 **(C) related cases;**

26 The parties are not aware of any related cases;
27

1 **(D) discovery management;**

2 The parties agree that standard discovery management is appropriate for this case;

3 **(E) anticipated discovery sought;**

4 The parties agree to seek discovery within the scope of their claims and defenses;

5 **(F) phasing motions;**

6 The parties agree that there is no need for formal phasing of motions practice;

7 **(G) preservation of discoverable information;**

8 The parties agree to preserve all discoverable information;

9 **(H) privilege issues;**

10 The parties agree to raise privilege issues as they arise;

11 **(I) Model Protocol for Discovery of ESI; and**

12 With the caveat mentioned in (2)(C) above, the parties agree to follow the Model
13 Protocol for Discovery of ESI;

14 **(J) alternatives to Model Protocol.**

15 With the caveat mentioned in (2)(C) above, the parties agree to follow the Model
16 Protocol for Discovery of ESI;

17 **5. The date by which discovery can be completed.**

18 The parties propose 12 months for completion of discovery.

19 **6. Whether the case should be bifurcated by trying the liability issues**
20 **before the damages issues, or bifurcated in any other way.**

21 The parties agree that bifurcation is not necessary.

22 **7. Whether the pretrial statements and pretrial order called for by Local**
23 **Civil Rules 16(e), (h), (i), and (k), and 16.1 should be dispensed with in**
24 **whole or in part for the sake of economy.**

25 The parties do not propose any changes to Local Civil Rules 16(e), (h), (i), and
26 (k), and 16.1 for the sake of economy.
27

1 **8. Whether the parties intend to utilize the Individualized Trial Program**
2 **set forth in Local Civil Rule 39.2 or any ADR options set forth in Local**
3 **Civil Rule 39.1.**

4 The parties do not intend to utilize the Individualized Trial Program set forth in
5 Local Civil Rule 39.2 or any ADR options set forth in Local Civil Rule 39.1.

6 **9. Any other suggestions for shortening or simplifying the case.**

7 The only suggestion the parties offer to assist with the prompt and efficient
8 resolution of the case is adjudication of the early motions.

9 **10. The date the case will be ready for trial. The Court expects that most**
10 **civil cases will be ready for trial within a year after filing the Joint**
11 **Status Report and Discovery Plan.**

12 The parties anticipate the case will be ready for trial in 16 months.

13 **11. Whether the trial will be jury or non-jury.**

14 The parties agree to seek a jury trial.

15 **12. The number of trial days required.**

16 The parties anticipate the trial will require 10 court days.

17 **13. The names, addresses, and telephone numbers of all trial counsel.**

18 Plaintiffs' trial counsel:

19 Braden Pence
20 Nathaniel Flack
21 705 Second Ave, Ste 1500
22 Seattle, WA 98104
23 206-622-1604
24 bradenp@mhb.com
25 natef@mhb.com

26 Neil Fox
27 2125 Western Ave #330
 Seattle, WA 98121
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 Defendants' trial counsel:

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 701 Fifth Avenue, Suite 2050

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Jessica.Leiser@seattle.gov

14. The dates on which the trial counsel may have complications to be considered in setting a trial date.

Plaintiffs' trial counsel have scheduling conflicts on the following dates:

February 12-March 1, 2024

May 6-July 7, 2024

Defendants' trial counsel have scheduling conflicts on the following dates:

April 8-12, 2024

15. If, on the due date of the Report, all defendant(s) or respondents(s) have not been served, counsel for the plaintiff shall advise the Court when service will be effected, why it was not made earlier, and shall provide a proposed schedule for the required FRCP 26(f) conference and FRCP 26(a) initial disclosures.

The parties agree that all named Defendants have either been personally served or waived service and that all Doe Defendants will be named promptly and served upon their identification.

16. Whether any party requests a pretrial Fed. R. Civ. P. 16 conference with the Judge before entry of any order under Rule 16 or setting the schedule in the case. If any party requests such a conference, indicate whether the request is for an in-person conference, or by phone.

The parties agree there is no need for a pretrial conference.

17. List the date(s) that each and every nongovernmental corporate party filed its disclosure statement pursuant to Fed. R. Civ. P. 7.1 and Local Civil Rule 7.1.

The parties agree there are no nongovernment corporate parties involved in this matter.

1 DATED this 5th day of April, 2023.

2 MacDONALD HOAGUE & BAYLESS

3 By: s/Braden Pence

4 Braden Pence, WSBA #43495

5 BradenP@mhb.com

6 Nathaniel Flack, WSBA #58582

7 nathanielf@mhb.com

8 Attorneys for Plaintiffs

9 DATED this 5th day of April, 2023.

10 THE LAW OFFICE OF NEIL FOX

11 By: s/Neil Fox

12 Neil Fox, WSBA #15277

13 nf@neilfoxlaw.com

14 Attorneys for Plaintiffs

15 DATED this 5th day of April, 2023.

16 ANN DAVISON
17 Seattle City Attorney

18 By: /s/ Kerala Cowart

19 Kerala Cowart, WSBA #53649

20 Jessica Leiser, WSBA #49349

21 Assistant City Attorneys

22 Kerala.cowart@seattle.gov

23 Jessica.leiser@seattle.gov

24 Attorneys for Defendant City of Seattle

CERTIFICATE OF SERVICE

I hereby certify that on this date I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following individuals:

Attorneys for Defendants

Ann Davison
Seattle City Attorney

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Seattle City Attorney's Office
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DATED this 5th day of April, 2023, at Seattle, Washington.

s/ Lucas Wildner
Lucas Wildner, Legal Assistant